



General Assembly

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Sixtieth session

Third Committee

Agenda items 64 and 124

Advancement of women

Proposed programme budget for the biennium 2006-2007

Convention on the Elimination of All Forms of Discrimination against Women

Programme budget implications of draft resolution A/C.3/60/L.17

**Statement submitted by the Secretary-General in accordance with
rule 153 of the rules of procedure of the General Assembly**

I. Requests contained in the draft resolution

1. Under the terms of operative paragraphs 14, 15 and 21 of draft resolution A/C.3/60/L.17, the General Assembly would:

(a) Decide to authorize the Committee on the Elimination of Discrimination against Women to hold three annual sessions of three weeks each, with a one-week pre-session working group for each session, effective from January 2006 as a temporary measure, and to continue to authorize two annual sessions of the Working Group on Communications under the Optional Protocol to the Convention;

(b) Also decide to authorize the Committee to meet on a temporary basis in 2006 and 2007 for up to seven days in parallel working groups during its third (July/August) annual session in 2006, and its first (January) and third (July/August) annual sessions in 2007, taking due account of equitable geographical distribution, for the purpose of considering reports of States parties submitted under article 18 of the Convention;

(c) Request the Secretary-General, in accordance with General Assembly resolution 54/4 of 6 October 1999, to provide the resources, including staff and facilities, necessary for the effective functioning of the Committee within its full mandate, taking into account in particular the entry into force of the Optional Protocol.



II. Relationship of the proposed decision to the biennial programme plan for the period 2006-2007 and the programme of work contained in the proposed programme budget for the biennium 2006-2007

2. The activities to be carried out relate to: programme 1, General Assembly and Economic and Social Council affairs and conference management; subprogramme 2, Gender issues and advancement of women, of programme 7, Economic and social affairs; and subprogramme 4, Support services, of programme 24, Management and support services, of the biennial programme plan for the period 2006-2007. They fall under: section 2, General Assembly and Economic and Social Council affairs and conference management; section 9, Economic and social affairs; and section 28D, Office of Central Support Services, of the proposed programme budget for the biennium 2006-2007.

3. Provisions have been made in the proposed programme budget for the biennium 2006-2007 for travel and per diem costs of the 23 members of the Committee on the Elimination of Discrimination against Women to attend its two annual regular sessions in New York of 15 working days each and, for each session, a five-day pre-session working group meeting, and the cost of attendance at two annual meetings of the Working Group on Communications under the Optional Protocol, as well as for substantive, conference and support services to the Committee, the pre-session working group and the Working Group on Communications.

III. Activities by which the proposals will be implemented

4. The decision to hold three annual sessions of the Committee, called for in the draft resolution and referred to in paragraph 1 (a) above, would give rise to two additional sessions in the biennium 2006-2007 and is expected to allow the Committee to consider a greater number of States parties' reports. The Committee currently considers 16 States' reports annually. Should the draft resolution of the Third Committee be endorsed, it is estimated that the Committee will be able to consider between 30 and 35 reports per year and effectively eliminate the backlog of reports. The other expectations with regard to an extension of the Committee's meeting times and changes to its methods of work are that the establishment of parallel working groups called for in paragraph 15 of the draft resolution would effectively double the volume of States parties' reports considered at the Committee's sessions and that the Secretariat would provide high-quality servicing and support to the parallel working groups that would be considering States parties' reports simultaneously. It is estimated that an additional amount of \$505,700 would be required in the biennium 2006-2007 to provide for the travel, daily subsistence allowance and terminal expenses of members of the Committee attending the two additional sessions and two additional pre-session working group meetings.

5. Under the supervision of the Chief of the Women's Rights Section of the Division for the Advancement of Women at the P-5 level, a staff member at the P-4 level serves as the Secretary of the Committee. In addition, the incumbents of one P-4 and one P-2 post provide substantive support for the Optional Protocol to the Convention, which came into force in 2000. One P-4 and one P-3 post are allocated

for supporting the human rights work undertaken by United Nations intergovernmental bodies such as the General Assembly and the Commission on the Status of Women. The incumbents of the latter four posts also assist in the substantive servicing of the sessions of the Committee.

6. To support the additional workload of the Committee foreseen in the draft resolution, general temporary assistance equivalent to 18 work-months at the P-3 level, estimated at \$233,900, is proposed, on a non-recurrent basis for the biennium 2006-2007, to assist with:

(a) The analysis of States parties' reports on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, drawing upon prior reports and other relevant information, including from United Nations sources;

(b) The preparation of draft lists of issues and questions on States parties' reports under consideration by the Committee;

(c) In-session support to Committee experts in the preparation of draft concluding comments on States parties' reports;

(d) The identification of gaps existing at the country level in the implementation of the Convention;

(e) Substantive support, especially during the sessions of the Committee with parallel working groups.

7. The current mandate of the Committee is to meet twice per year for three weeks each time. A one-week pre-session working group follows each session. Should the draft resolution be adopted, it would entail one additional three-week session in each year of the 2006-2007 biennium, which would require interpretation services in the six official languages. The additional one-week pre-session working group meeting to be held following each of the additional three-week sessions would require interpretation services in English, French and Spanish only. For the thirty-fifth and thirty-eighth sessions of the Committee, pre-session documentation is estimated at 400 pages and 1,200 pages respectively. Each session would require 150 pages of in-session and 150 pages of post-session documentation in the six languages. For the existing two three-week annual sessions the interpretation requirements are expected to remain unchanged, while the documentation requirements will increase to 1,800 pages of pre-session, 200 pages of in-session and 200 pages of post-session documentation in all six languages. The documentation for the additional one-week session of the pre-session working group in each year and for the parallel seven-day working meetings to be held in July/August 2006 (during the thirty-sixth session), January 2007 (during the thirty-seventh session) and July/August 2007 (during the thirty-ninth session) is included in the overall forecast. Summary records would be provided for all the meetings of the Committee, except the pre-session working group meetings.

8. Should draft resolution A/C.3/60/L.17 be adopted, the exact dates for all the meetings of the Committee, consisting of three three-week annual sessions of the Committee, three one-week annual pre-session working group meetings and three parallel working group meetings to be held in 2006-2007, will be determined by consultation between the substantive secretariat and the Department for General

Assembly and Conference Management subject to the availability of conference facilities and services.

9. The adoption of draft resolution A/C.3/60/L.17 would cause modifications in the number of meetings cited in the programme of work contained in the proposed programme budget for the biennium 2006-2007. In the narrative of subprogramme 2, Gender issues and advancement of women, paragraph 9.56 (v) would be revised as follows:

- a. Substantive servicing of meetings: substantive and technical servicing of Committee plenary and working group meetings (180); substantive and technical servicing of pre-session working group meetings (60); substantive and technical servicing of parallel working groups (30); substantive and technical servicing of working group on petitions (40).

IV. Additional requirements for the biennium 2006-2007

10. Should the General Assembly adopt draft resolution A/C.3/60/L.17, additional resources estimated at \$505,700 for travel, per diem and terminal expenses for the members of the Committee to attend a third annual session of three weeks in each year of the biennium 2006-2007, with a one-week pre-session working group meeting for each session, effective from January 2006, are proposed under section 9 of the proposed programme budget for the biennium 2006-2007. General temporary assistance equivalent to 18 work-months at the P-3 level, estimated at \$233,900, is also proposed under section 9. Furthermore, additional conference-servicing costs are estimated at \$8,689,800 under section 2 and support costs at \$89,900 under section 28D for the biennium 2006-2007.

11. The above requirements relating to the additional meetings of the Committee and the pre-session working group meetings are enumerated in the table below.

(United States dollars)

	2006	2007	Total
Section 9, Economic and social affairs			
Travel, per diem and terminal expenses	252 800	252 900	505 700
General temporary assistance	116 900	117 000	233 900
Subtotal	369 700	369 900	739 600
Section 2, General Assembly and Economic and Social Council affairs and conference management			
Meetings servicing, interpretation and documentation	3 751 400	4 938 400	8 689 800
Section 28D, Office of Central Support Services			
Support services	39 800	50 100	89 900
Total	4 160 900	5 358 400	9 519 300

V. Contingency fund

12. It will be recalled that, under the procedures established by the General Assembly in its resolutions 41/213 of 19 December 1986 and 42/211 of 21 December 1987, a contingency fund is established for each biennium to accommodate additional expenditures derived from legislative mandates not provided for in the programme budget. Under this procedure, if additional expenditures were proposed that exceed the resources available from the contingency fund, the activities concerned would be implemented only through the redeployment of resources from low-priority areas or the modification of existing activities. Otherwise, such additional activities would have to be deferred to a later biennium.

VI. Summary

13. Should draft resolution A/C.3/60/L.17 be adopted by the General Assembly, additional resources in the total amount of \$9,519,300 would be required under section 9, Economic and social affairs (\$739,600), section 2, General Assembly and Economic and Social Council affairs and conference management (\$8,689,800) and section 28D, Office of Central Support Services (\$89,900) of the proposed programme budget for the biennium 2006-2007. This would represent a charge against the contingency fund and, as such, would require appropriations for the biennium 2006-2007 to be approved by the General Assembly at its sixtieth session.



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Advancement of women

Proposed programme budget for the biennium 2006-2007

Future operations of the International Research and Training Institute for the Advancement of Women

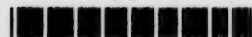
Programme budget implications of draft resolution A/C.3/60/L.15

Statement submitted by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly

Summary

By draft resolution A/C.3/60/L.15, the General Assembly would decide to provide its full support to the current efforts to revitalize the International Research and Training Institute for the Advancement of Women (INSTRAW) and, in this regard, to provide it with the requisite funds to enable it to carry out its core functions for at least the next three years.

The requirements to sustain the operations of the Institute in 2006 are estimated in the amount of \$1,314,352. It is anticipated that the balance available for allocation in the INSTRAW Trust Fund as of 1 January 2006 would amount to approximately \$272,200. It is not possible at this stage to determine whether the Institute would have adequate resources to operate to 31 December 2006 without complementary funds. Contingent upon the availability or otherwise of additional voluntary contributions, an additional amount of \$1,067,200 may be required from the regular budget of the United Nations to maintain the Institute in 2006. The provision of additional funds, at this stage, for financing operations of the Institute in 2007 and 2008 would imply an annual subvention from the regular budget of the United Nations and is subject to the express decision of the General Assembly in this regard as well as to the amendment of article VII of the statute of the Institute.



I. Requests contained in the draft resolution

1. Under the terms of paragraph 6 of draft resolution A/C.3/60/L.15, the General Assembly would decide to provide its full support to the current efforts to revitalize the International Research and Training Institute for the Advancement of Women (INSTRAW) and, in this regard, to provide it with the requisite funds to enable it to carry out its core functions for at least the next three years.

II. Background

2. In paragraph 8 of its resolution 59/260 on the future operation of INSTRAW, the General Assembly decided to provide its full support to the current efforts to revitalize the Institute and, in this regard, to ensure that the Institute would be able to continue functioning for a period of at least one year.
3. The Fifth Committee, by its decision contained in document A/59/641, decided to inform the General Assembly that, should it adopt draft resolution A/C.3/59/L.26 (resolution 59/260) as an exceptional measure, additional requirements of \$1,092,400 would arise under section 9 of the programme budget for the biennium 2004-2005. The Committee requested the Assembly to appropriate this amount against the contingency fund, to be used should there be a shortage of voluntary contributions for the functioning of the Institute in 2005. Moreover, the Committee requested the Secretary-General to report to the Assembly, as a matter of priority, early during the main part of its sixtieth session, on the overall financial situation of the Institute. The report of the Secretary-General on the financial situation of the Institute was submitted to the current session of the Assembly (A/60/366).

III. Procedures for administrative and budgetary matters

4. As paragraph 6 of draft resolution A/C.3/60/L.15 deals with administrative and budgetary matters, the attention of the Committee is drawn to the provisions of part B, section VI, of General Assembly resolution 45/248, in which the Assembly reaffirmed that administrative and budgetary matters should be dealt with by the Fifth Committee and the Advisory Committee on Administrative and Budgetary Questions. Under the circumstances, the consideration by the Third Committee of the text of paragraph 6 of the draft resolution may be considered to be in contravention of resolution 45/248 B.

IV. Current financial situation

5. As indicated in the report of the Secretary-General on the financial situation of the Institute (*ibid.*), the available balance of the INSTRAW Trust Fund as at 1 January 2005 amounted to \$959,675, including \$546,200 representing 50 per cent of the subvention of \$1,092,400. For the period 1 January to 31 August 2005, additional income received in the Trust Fund amounted to \$696,185, while expenditures for the same period amounted to \$759,492. It was anticipated that expenditures for the period September through December 2005 would amount to \$424,208 and the closing balance as at 31 December 2005 was projected at \$472,160.

6. In its proposed operational budget (INSTRAW/EB/2005/R.3/Rev.1), INSTRAW estimated the 2006 core requirements at \$1,314,352, but funds to cover these requirements in full have been neither pledged nor received. As the United Nations pledging conference for development activities is scheduled for the beginning of November 2005, it is not possible to provide a reliable estimate of 2006 income at this time.

V. Administrative and financial arrangements and indication of additional requirements

7. As indicated in paragraph 28 of the proposed workplan and operational budget for 2006 for INSTRAW (*ibid.*), the estimated 2006 budget (\$1,314,352) represents an 11 per cent (or \$131,015) increase over the 2005 estimated requirements (\$1,183,760) owing mostly to the increase in the cost of living in the Dominican Republic and the resulting changes of the level of staff salaries and consultants' remuneration.

8. In detail, the related requirements of \$1,314,352 for 2006 include: (a) \$705,300 for nine posts (1 D-2, 1 P-3, 2 P-2/1 and 5 General Service); (b) resource requirements for substantive activities, including general temporary assistance, consultancy, travel and contractual services, estimated at \$423,500; and (c) administrative resource requirements of \$185,552, including general operating expenses, supplies and materials and equipment.

9. Excluding a reserve of \$200,000, which has been set aside to cover final expenditures and liabilities in the event that the Institute has to be closed down, the balance of resources to be available to INSTRAW as at 1 January 2006 would amount to some \$272,200. On this basis, it is estimated that a shortfall of resources required for 2006 would amount to approximately \$1,067,200 as follows:

Estimated balance available 1 January 2001	\$ 247 200
Anticipated requirements in 2001	\$1 314 400
Shortfall	\$1 067 200

10. It is assumed, on the basis of the financial periods of the regular budget, that the period of three years indicated in paragraph 6 of draft resolution A/C.3/60/L.15 would be from 1 January 2006 to 31 December 2007 and from 1 January to 31 December of 2008. It is also understood that the request to ensure that the Institute would have adequate resources to function for a period of three years implies the continuation and extension of the core activities of the Institute at the current level, those resources being defined as the salaries of the four Professional and five General Service staff as well as related substantive and administrative non-post resource requirements, estimated at approximately \$1,300,000 per annum or \$3,900,000 for three years.

11. It is implied that in order to provide the requisite funds to enable INSTRAW to carry out its core functions for at least the next three years, an annual subvention from the regular budget of the United Nations is required. However, it is not possible at this stage to determine precisely what resources from voluntary contributions the Institute will receive to finance its 2007 and 2008 requirements.

Experience to date, however, demonstrates that at least part of these requirements have been funded from the regular budget as indicated in the table below:

Table 1
Ratio of subventions to annual total expenditure

(United States dollars)

<i>Year</i>	<i>Approved by</i>	<i>Total expenditure</i>	<i>Subvention from the regular budget</i>	<i>Ratio of subvention to total expenditure</i>
2000		1 091 377	0	0
2001		893 878	0	0
2002	Decision 55/457	499 057	650 000	130
2003	Decision 57/580	479 776	500 000	104
	Resolution 57/311			
2004	Resolution 58/244	877 931	0	0
	(A/58/649)			
2005*	Resolution 59/260	1 183 760	546 200	46
	(A/59/641)			
Average		5 025 779	1 696 200	34

* Projected.

12. As estimated in the report of the Secretary-General on the financial situation of the Institute (A/60/366), 50 per cent of the 2005 subvention of \$1,092,400 would not be necessary to finance the Institute's requirements in 2005. It is also recalled, in this connection, that the amount of \$234,700 set aside in the contingency fund to finance the Institute's requirements in 2004 had not been used. Consequently, only requirements for the financing of the Institute in 2006 in the amount of \$1,067,200, as indicated in paragraph 9 above, could be reasonably estimated at this stage.

13. The proposed programme budget for the biennium 2006-2007 does not provide resources for the support of INSTRAW operations in 2006. Any amount that the General Assembly may decide to allocate to enable the Institute to continue its operations in 2006 and beyond would therefore need to be provided through an additional appropriation in the context of the operations of the contingency fund established by the Assembly in its resolution 41/213.

14. Moreover, if the General Assembly decides to provide the Institute with the requisite funds to enable it to carry out its core functions for at least the next three years, the Assembly could do so only through the regular budget. However, in accordance with article VII of the statute of the Institute, the Secretary-General of the United Nations shall provide the Institute with appropriate administrative and other support, including financial and personnel services, in accordance with the Financial Regulations and Rules of the United Nations and on conditions determined after consultations between the Secretary-General and the Director of the Institute, it being understood that no extra costs to the regular budget of the United Nations are incurred. Consequently, in order to provide an annual subvention

to the Institute for at least three years, it is necessary to amend article VII of the statute.

15. As to the manner in which the assistance, requested in draft resolution A/C.3/60/L.15, could be provided, it is the intention of the Secretary-General to bring this question to the attention of the Fifth Committee. As indicated in paragraph 3 above, the attention of the Fifth Committee was drawn to the status of the financial situation of the Institute in the report of the Secretary-General on the financial situation of the Institute (ibid.) submitted in the context of the programme budget for the biennium 2004-2005 (agenda item 123).

VI. Summary

16. Should the General Assembly adopt draft resolution A/C.3/60/L.15, the decision to provide support to the Institute would, contingent upon availability or otherwise of additional voluntary contributions to the INSTRAW Trust Fund, give rise to potential additional requirements of up to \$1,067,200 for the biennium 2006-2007 over and above the regular budget resources proposed under section 9, Economic and social affairs, of the proposed programme budget for the biennium 2006-2007 in order to finance the requirements of the Institute in the year 2006 only.

17. The provision would represent a charge against the contingency fund and, as such, would need to be considered in the context of the review by the Fifth Committee of the consolidated statement of potential charges to the contingency fund before approval of any increase in appropriations for the biennium 2006-2007. The provision of additional funds to finance operations of the Institute in 2007 and 2008 would imply an annual subvention to the Institute, which is subject to the express decision of the General Assembly in this regard and to the amendment of article VII of the statute of the Institute.

18. The attention of the Committee is drawn to the provisions of section VI of General Assembly resolution 45/248 B, in which the Assembly reaffirmed that the Fifth Committee is the appropriate Main Committee of the Assembly entrusted with responsibilities for administrative and budgetary matters and reaffirmed also the role of the Advisory Committee on Administrative and Budgetary Questions.



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Agenda item 67

Promotion and protection of the rights of children

Argentina, Austria, Belgium, Bolivia, Brazil, Bulgaria, Chile, Colombia, Costa Rica, Cuba, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, Nicaragua, Panama, Paraguay, Peru, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, Uruguay and Venezuela (Bolivarian Republic of):
draft resolution

Rights of the child

The General Assembly,

Recalling its previous resolutions on the rights of the child, the most recent of which is resolution 59/261 of 23 December 2004, as well as Commission on Human Rights resolution 2005/44 of 19 April 2005,¹

Emphasizing that the Convention on the Rights of the Child² must constitute the standard in the promotion and protection of the rights of the child, and bearing in mind the importance of its Optional Protocols³ as well as other human rights instruments,

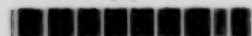
Reaffirming the outcome document of the twenty-seventh special session of the General Assembly on children, entitled "A World Fit for Children",⁴ the Declaration of Commitment on HIV/AIDS adopted at the twenty-sixth special session of the General Assembly on HIV/AIDS, also entitled "Global Crisis —

¹ Official Records of the Economic and Social Council, 2005, Supplement No. 3 (E/2005/23), chap. II, sect. A.

² United Nations Treaty Series, vol. 1577, No. 27531.

³ Resolution 54/263, annexes I and II.

⁴ Resolution S-27/2, annex.



Global Action",⁵ the United Nations Millennium Declaration⁶ and the Vienna Declaration and Programme of Action,⁷

Noting with appreciation the reports of the Secretary-General on follow-up to the special session of the General Assembly on children,⁸ and on the status of the Convention on the Rights of the Child,⁹ as well as the reports of the Chairman of the Committee on the Rights of the Child, the Special Representative of the Secretary-General for Children and Armed Conflict¹⁰ and the independent expert for the United Nations study on violence against children,¹¹

Reaffirming that the best interests of the child shall be a primary consideration in all actions concerning children,

Recognizing the importance of incorporating a child-protection perspective across the human rights agenda, as highlighted in the 2005 World Summit Outcome,¹²

Profoundly concerned that the situation of children in many parts of the world remains critical as a result of the persistence of poverty, social inequality, inadequate social and economic conditions in an increasingly globalized economic environment, pandemics, in particular HIV/AIDS, malaria and tuberculosis, environmental damage, natural disasters, armed conflict, displacement, violence, abuse, exploitation, trafficking in children and their organs, child prostitution, child pornography and child sex tourism, neglect, illiteracy, hunger, intolerance, discrimination, xenophobia, gender inequality, disability and inadequate legal protection, and convinced that urgent and effective national and international action is called for,

Underlining the need to mainstream a gender perspective in all policies and programmes relating to children and recognizing the child as a rights holder in all policies and programmes relating to children,

I. Implementation of the Convention on the Rights of the Child and its Optional Protocols

1. *Reaffirms* that the general principles of, inter alia, the best interest of the child, non-discrimination, participation and survival and development provide the framework for all actions concerning children, including adolescents;

2. *Urges once again* States that have not yet done so to sign and ratify or accede to the Convention on the Rights of the Child² as a matter of priority, and, concerned about the great number of reservations to the Convention, urges States parties to withdraw reservations that are incompatible with the object and purpose of the Convention and to consider reviewing other reservations with a view to withdrawing them;

⁵ Resolution S-26/2, annex.

⁶ See resolution 55/2.

⁷ A/CONF.157/23.

⁸ A/60/207.

⁹ A/60/175 and Corr.1.

¹⁰ A/60/335.

¹¹ A/60/282.

¹² Resolution 60/1.

3. *Also urges* States that have not yet done so to consider signing and ratifying or acceding to the Optional Protocols to the Convention on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography;³

4. *Calls upon* States parties to implement the Convention and its Optional Protocols fully by, inter alia, putting in place effective national legislation, policies and action plans, strengthening relevant governmental structures for children and ensuring adequate and systematic training in the rights of the child for professional groups working with and for children;

5. *Welcomes* the work of the Committee on the Rights of the Child, and calls upon all States to strengthen their cooperation with the Committee, to comply in a timely manner with their reporting obligations under the Convention and the Optional Protocols thereto, in accordance with the guidelines elaborated by the Committee, and to take into account its recommendations on implementation of the Convention;

6. *Requests* all relevant organs of the United Nations system and United Nations mechanisms regularly and systematically to incorporate a strong child rights perspective throughout all activities in the fulfilment of their mandates, as well as to ensure that their staff are trained in child rights matters, and calls upon States to cooperate closely with all these mechanisms, in particular the special rapporteurs and special representatives of the United Nations system;

7. *Encourages* States to strengthen their national statistical capacities and to use statistics disaggregated, inter alia, by age, gender and other relevant factors that may lead to disparities and other statistical indicators at the national, subregional, regional and international levels to develop and assess social policies and programmes so that economic and social resources are used efficiently and effectively for the full realization of the rights of the child;

II. Promotion and protection of the rights of child

Registration, family relations and adoption

8. *Urges once again* all States to intensify their efforts to comply with their obligation under the Convention on the Rights of the Child to preserve the child's identity, including nationality and family relations, as recognized by law, to allow for the registration of the child immediately after birth, to ensure that registration procedures are simple, expeditious and effective and provided at minimal cost and to raise awareness of the importance of birth registration at the national, regional and local levels;

9. *Encourages* States to adopt and enforce laws and improve the implementation of policies and programmes to protect children growing up without parents or caregivers, recognizing that, where alternative care is necessary, family- and community-based care should be promoted over placement in institutions;

10. *Calls upon* States to address cases of international parental or familial child abduction, and encourages States to engage in multilateral and bilateral cooperation to resolve these cases, preferably by accession to the Hague Convention on the Civil Aspects of International Child Abduction, and to facilitate, inter alia, the return of the child to the country in which he or she resided immediately before

the removal or retention and, in this respect, to pay particular attention to cases of international abduction of children by a parent and/or by other relatives;

11. *Calls upon* States to take all necessary measures to prevent and combat illegal adoptions and all adoptions that are not in the best interests of the child;

Economic and social well-being of children

12. *Calls upon* States and the international community to create an environment in which the well-being of the child is ensured, and, inter alia, to:

(a) Cooperate, support and participate in global efforts for poverty eradication at the global, regional and country levels, recognizing that strengthened availability and effective allocation of resources are required at all levels, in order to ensure that all the internationally agreed development and poverty eradication goals, including those set out in the United Nations Millennium Declaration,⁶ are realized within their time framework, reaffirming that investments in children and the realization of their rights are among the most effective ways to eradicate poverty;

(b) Take all necessary measures to ensure the right of the child to the enjoyment of the highest attainable standard of health and to develop sustainable health and social services systems, ensuring access to such systems and services without discrimination, paying particular attention to adequate food and nutrition and assigning priority to activities and programmes aimed at preventing addictions, in particular addiction to alcohol and tobacco, and the abuse of narcotic drugs, psychotropic substances and inhalants;

(c) Recognize the right to education on the basis of equal opportunity and non-discrimination through making primary education compulsory and available free to all children, ensuring that all children have access to education of good quality, and making secondary education generally available and accessible to all, in particular through the progressive introduction of free education, bearing in mind that special measures to ensure equal access, including affirmative action, contribute to achieving equal opportunity and combating exclusion;

(d) Design and implement programmes to provide social services and support to pregnant adolescents and adolescent mothers, in particular through enabling them to continue and complete their education;

Violence against children

13. *Urges* States:

(a) To take all appropriate measures to prevent and protect children from all forms of violence, including physical, mental and sexual violence, torture, child abuse and exploitation, domestic violence, trafficking in children and their organs, child prostitution, child pornography and child sex tourism and abuse by police, other law enforcement authorities and employees and officials in detention centres or welfare institutions;

(b) To investigate and prosecute cases of torture and other forms of violence against children and to punish the perpetrators;

(c) To strengthen efforts to protect children from gang-related violence, in particular through a comprehensive approach to this phenomenon;

(d) To end impunity for perpetrators of crimes committed against children, recognizing in this regard the contribution of the establishment of the International Criminal Court as a way to prevent violations of human rights and international humanitarian law, in particular when children are victims of serious crimes, including the crime of genocide, crimes against humanity and war crimes, to bring perpetrators of such crimes to justice and not grant amnesties for these crimes and to strengthen international cooperation towards the goal of ending impunity;

(e) To take measures to protect schoolchildren from violence, injury or abuse, including sexual abuse and intimidation or maltreatment in schools, to establish complaint mechanisms that are age appropriate and accessible to children and to undertake thorough and prompt investigations of all acts of violence and discrimination;

(f) To take measures to eliminate the use of corporal punishment in schools;

(g) To condemn the abduction of children, particularly extortive abduction and abduction in situations of armed conflict, to take all appropriate measures to secure the unconditional release, rehabilitation, reintegration and reunification with their families of all abducted children, to bring the perpetrators to justice and, in this regard, to request international organizations to cooperate with national authorities;

Non-discrimination

14. *Calls upon* all States to ensure the enjoyment by children of all their civil, political, economic, social and cultural rights without discrimination of any kind;

15. *Notes with concern* the large number of children, particularly girls and children belonging to minorities, who are among the victims of racism, racial discrimination, xenophobia and related intolerance, stresses the need to incorporate special measures, in accordance with the principle of the best interest of the child and respect for his or her views, in programmes to combat racism, racial discrimination, xenophobia and related intolerance, and calls upon States to provide special support and ensure equal access to services for all children;

16. *Calls upon* States to take all necessary measures, including legal reforms where appropriate, to eliminate all forms of discrimination against girls and all forms of violence, including female infanticide and prenatal sex selection, rape, sexual abuse and harmful traditional or customary practices, including female genital mutilation, marriages without the free and full consent of the intending spouses, early marriages and forced sterilization, by enacting and enforcing legislation and by formulating, where appropriate, comprehensive, multidisciplinary and coordinated national plans, programmes or strategies to protect girls;

Promoting and protecting the rights of children, including children in particularly difficult situations

17. *Calls upon* all States to prevent violations of the rights of children working and/or living on the street, including discrimination, arbitrary detention and extrajudicial, arbitrary or summary executions, torture, all kinds of violence and exploitation, to bring the perpetrators to justice, to adopt and implement policies for the protection, social and psychosocial rehabilitation and reintegration of these

children and to adopt economic, social and educational strategies to address the problems of children living or working on the street;

18. *Calls upon* States to protect refugee, asylum-seeking and internally displaced children, in particular those who are unaccompanied, who are particularly exposed to risks in connection with armed conflict, such as recruitment, sexual violence and exploitation, to pay particular attention to programmes for voluntary repatriation and, wherever possible, local integration and resettlement, to give priority to family tracing and family reunification and, where appropriate, to cooperate with international humanitarian and refugee organizations, including by facilitating their work;

19. *Also calls upon* States to ensure, for children belonging to minorities and vulnerable groups, including migrant children and indigenous children, the enjoyment of all human rights as well as access to health care, social services and education of good quality and to ensure that children belonging to minorities, in particular victims of violence and exploitation, receive special protection and assistance;

20. *Further calls upon* States to take the necessary measures to ensure the full and equal enjoyment of all human rights and fundamental freedoms by children with disabilities in both the public and the private spheres, including access to good quality education and health care and protection from violence, abuse and neglect, and to develop and, where it already exists, to enforce legislation to prohibit discrimination against them to ensure their dignity, promote their self-reliance and facilitate their active participation and integration in the community, taking into account the particularly difficult situation of children with disabilities living in poverty;

21. *Calls upon* States to protect the inheritance and property rights of orphans in law and in practice, with particular attention to underlying gender-based discrimination that may interfere with the fulfilment of these rights;

22. *Also calls upon* States to translate into concrete action their commitment to the progressive and effective elimination of child labour that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual, moral or social development, to eliminate immediately the worst forms of child labour, to promote education as a key strategy in this regard, including the creation of vocational training and apprenticeship programmes and the integration of working children into the formal education system and to examine and devise economic policies, where necessary, in cooperation with the international community, that address factors contributing to these forms of child labour;

23. *Urges* States that have not yet done so to consider signing and ratifying or acceding to the Convention concerning Minimum Age for Admission to Employment, 1973 (Convention No. 138) and the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999 (Convention No. 182) of the International Labour Organization;

24. *Calls upon* all States, in particular those States in which the death penalty has not been abolished:

(a) To abolish by law, as soon as possible, the death penalty for those below the age of 18 years at the time of the commission of the offence;

(b) To comply with their obligations as assumed under relevant provisions of international human rights instruments, including the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights;¹³

(c) To keep in mind the safeguards guaranteeing protection of the rights of those facing the death penalty and the guarantees set out in United Nations safeguards adopted by the Economic and Social Council;

25. *Also calls upon* all States to ensure that no child in detention is sentenced to forced labour or corporal punishment or deprived of access to and provision of health-care services, hygiene and environmental sanitation, education, basic instruction and vocational training;

Prevention and eradication of the sale of children, child prostitution and child pornography

26. *Calls upon* all States:

(a) To criminalize and penalize effectively all forms of sexual exploitation and sexual abuse of children, including all acts of paedophilia, including within the family or for commercial purposes, child pornography and child prostitution, child sex tourism, trafficking in children, the sale of children and their organs and the use of the Internet for these purposes, and to take effective measures against the criminalization of children who are victims of exploitation;

(b) To ensure the prosecution of offenders, whether local or foreign, whether in the country in which the crime was committed, in the country of which the offender is a national or resident, in the country of which the victim is a national or on any other basis permitted under domestic law, and, for these purposes, to afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings;

(c) To increase cooperation at all levels to prevent and dismantle networks trafficking in children and their organs and, for those States that have not yet done so, to consider signing and ratifying or acceding to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;¹⁴

(d) In cases of trafficking in children, the sale of children, child prostitution and child pornography, to address effectively the needs of victims, including their safety and protection, physical and psychological recovery and full reintegration into society, including through bilateral and multilateral technical cooperation and financial assistance;

(e) To combat the existence of a market that encourages such criminal practices against children, including through the adoption, effective application and enforcement of preventive, rehabilitative and punitive measures targeting customers or individuals who sexually exploit or sexually abuse children, as well as by ensuring public awareness;

¹³ See resolution 2200 A (XXI), annex.

¹⁴ Resolution 55/25, annex II.

(f) To contribute to the elimination of the sale of children, child prostitution and child pornography by adopting a holistic approach, addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structures, dysfunctional families, lack of education, urban-rural migration, gender discrimination, criminal or irresponsible adult sexual behaviour, child sex tourism, organized crime, harmful traditional practices, armed conflicts and trafficking in children;

Children affected by armed conflict

27. *Strongly condemns* any recruitment or use of children in armed conflict contrary to international law, and urges all States and other parties to armed conflict that are engaged in such practices to end them;

28. *Reaffirms* the essential roles of the General Assembly, the Economic and Social Council and the Commission on Human Rights in promoting and protecting the rights and welfare of children;

29. *Calls upon* States:

(a) When ratifying the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict,¹⁵ to raise the minimum age of voluntary recruitment of persons into the national armed forces from that set out in article 38, paragraph 3, of the Convention, bearing in mind that under the Convention persons under 18 years of age are entitled to special protection, and to adopt safeguards to ensure that such recruitment is not forced or coerced;

(b) To take all feasible measures to ensure the demobilization and effective disarmament of children used in armed conflicts and to implement effective measures for their rehabilitation, physical and psychological recovery and reintegration into society, in particular through educational measures, taking into account the rights and the specific needs and capacities of girls;

(c) To protect children affected by armed conflict, in particular from violations of international humanitarian law and human rights law and to ensure that they receive timely, effective humanitarian assistance, in accordance with the Geneva Conventions of 12 August 1949¹⁶ and international humanitarian law, and calls upon the international community to hold those responsible for violations accountable, inter alia, through the International Criminal Court;

(d) To take all feasible measures, in accordance with international humanitarian law and human rights law, as a matter of priority, to prevent the recruitment and use of children by armed groups, as distinct from the armed forces of a State, including the adoption of legal measures necessary to prohibit and criminalize such practices;

30. *Welcomes* the adoption of Security Council resolution 1612 (2005) of 26 July 2005 on the protection of children affected by armed conflict and the efforts of the Secretary-General to implement the monitoring and reporting mechanism called for by that resolution, with the participation of and in cooperation with

¹⁵ Resolution 54/263, annex I.

¹⁶ United Nations, *Treaty Series*, vol. 75, No. 970-973.

national Governments and relevant United Nations and civil society actors, including at the country level;

31. *Recognizes* the progress achieved since the establishment of the mandate of the Special Representative of the Secretary-General for Children and Armed Conflict in paragraphs 35 to 37 of General Assembly resolution 51/77 of 12 December 1996, and recommends that the Secretary-General extend the mandate of the Special Representative for a further period of three years;

32. *Recalls* the recommendation that the Special Representative foster international cooperation to ensure respect for children's rights in situations of armed conflict and contribute to the coordination of efforts by Governments and relevant United Nations bodies, as well as the request to Governments and relevant United Nations bodies to cooperate with the Special Representative;

III. Children affected by HIV/AIDS

33. *Acknowledges* that prevention, care, support and the treatment for those infected and affected by HIV/AIDS are mutually reinforcing elements of an effective response and must be integrated in a comprehensive approach to combat the epidemic, reaffirms that the full realization of human rights and fundamental freedoms for all is an essential element in the global response to the HIV/AIDS pandemic, and reaffirms also the importance of the elimination of all forms of discrimination against people living with or at risk of HIV/AIDS, including those most vulnerable;

34. *Calls upon* States:

(a) To ensure universal access to comprehensive information related to HIV/AIDS prevention by 2010 through education, life skills training for adolescents and the use of child-targeted media and to ensure that this information is relevant, age-appropriate and timely, engaging children, their parents or caregivers in its development and recognizing children as agents of change to enable them to protect themselves from HIV infection;

(b) To support adolescents to be able to deal positively and responsibly with their sexuality in order to protect themselves from HIV/AIDS infection, including to support adolescent girls' ability to protect themselves from unsafe sex, and to implement measures to increase the capacity of adolescents to protect themselves from HIV/AIDS, through, inter alia, the provision of health care, including for sexual and reproductive health, and through prevention education that promotes gender equality;

(c) To put in place strategies, policies and programmes that identify and begin to address those factors that make individuals particularly vulnerable to HIV infection, in order to complement prevention programmes that address activities which place individuals at risk of HIV infection, such as risky and unsafe sexual behaviour and injecting drug use;

(d) To ensure that, in preventing and addressing HIV/AIDS, particular attention is paid to girls, deeply concerned that the global HIV/AIDS pandemic disproportionately affects women and girls, that the majority of new HIV infections occur among young people and that unequal legal, economic and social status and violence against girls increase their vulnerability to HIV/AIDS;

(e) To take measures to prevent mother-to-child transmission of HIV, including the provision of essential drugs, appropriate antenatal, delivery and post-partum care, voluntary counselling and testing services for pregnant women and their partners and support for mothers, such as counselling on infant feeding options;

35. *Also calls upon States:*

(a) To ensure full and equal access for children to voluntary, free and confidential counselling, testing and care, including low cost and effective medication for the treatment of AIDS and associated opportunistic infections, recognizing the need for youth-friendly services, and urges States to work with the pharmaceutical industry and other stakeholders to ensure the development and universal availability of child suitable medication and treatments;

(b) To strengthen partnerships and international cooperation at the national, regional and international levels in order to offer infected and affected children medicines and related technology that are affordable, easy to use and readily available, recognizing that many developing countries may not have the financial or human resources capacity to mount an effective response to the HIV/AIDS epidemic;

(c) To integrate all aspects of HIV and AIDS treatment and care into all health care, programmes and services;

36. *Further calls upon States* to take effective measures to eliminate stigmatization and discrimination on the basis of HIV or AIDS status, actual or presumed, of the child or parent and to ensure that HIV or AIDS status does not stand in the way of the child's enjoyment of all human rights;

37. *Calls upon States* to make suitable provision for children affected by HIV/AIDS who can no longer live with their parents to retain links with their wider family and community, urges all States to sign the United Nations Framework for the Protection, Care and Support of Orphans and Vulnerable Children Living in a World with HIV and AIDS and to implement its key strategies, inter alia through adopting and implementing, as an integral part of their comprehensive national planning and budgeting processes, national action plans for the protection and care of orphans and vulnerable children, and requests donors, the United Nations system and civil society to support their efforts;

38. *Urges donors:*

(a) To ensure a successful replenishment of the Global Fund to Fight AIDS, Tuberculosis and Malaria, as well as the HIV/AIDS component of the work programmes of the United Nations system agencies and programmes engaged in the fight against HIV/AIDS, and notes that a major part of the international HIV and AIDS financing gap relates to children orphaned or made vulnerable by HIV/AIDS;

(b) To improve the effectiveness of their programmes through better alignment and elimination of duplication, and calls upon donors and the United Nations system to take forward the recommendations of the Global Task Team on Improving AIDS Coordination among Multilateral Institutions and International Donors;

Follow-up39. *Decides:*

(a) To request the Secretary-General to submit to the General Assembly at its sixty-first session a report on the rights of the child, containing information on the status of the Convention and the issues contained in the present resolution;

(b) To request the Special Representative of the Secretary-General for Children and Armed Conflict to continue to submit reports to the General Assembly and the Commission on Human Rights;

(c) To request the independent expert conducting the study on violence against children to present his final report to the sixty-first session of the General Assembly;

(d) To reiterate its invitation to the Chairman of the Committee on the Rights of the Child to present an oral report on the work of the Committee to the General Assembly at its sixty-first session as a way to enhance communication between the Assembly and the Committee;

(e) To pay particular attention to the rights of children affected by HIV and AIDS at its special session on HIV and AIDS in 2006;

(f) To continue its consideration of the question at its sixty-first session under the item entitled "Promotion and protection of the rights of children", focusing section III on "Children and poverty".



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Sixtieth session
Third Committee
Agenda item 68
Indigenous issues

**Bolivia, Brazil, Chile, Denmark, Dominican Republic, Ecuador,
Guatemala, Guyana, Mexico, Panama, Peru, Uruguay and Venezuela:
draft resolution**

Programme of action for the Second International Decade of the World's Indigenous People

The General Assembly,

Bearing in mind that, in the Vienna Declaration and Programme of Action,¹ the 1993 World Conference on Human Rights recognized the inherent dignity and the unique contribution of indigenous peoples to the development and plurality of society and strongly reaffirmed the commitment of the international community to their economic, social and cultural well-being and their enjoyment of the fruits of sustainable development,

Reaffirming that States should, in accordance with international law, take concerted positive steps to ensure respect for all human rights and fundamental freedoms of indigenous peoples, on the basis of equality and non-discrimination, and recognizing the value and diversity of their distinctive identities, cultures and social organizations,

Recalling its resolution 48/163 of 21 December 1993, in which it proclaimed the International Decade of the World's Indigenous People, commencing on 10 December 1994, with the goal of strengthening international cooperation for the solution of problems faced by indigenous people in such areas as human rights, the environment, development, education and health,

Bearing in mind the internationally agreed development goals, including those contained in the United Nations Millennium Declaration² and the programme of action for the Second Decade of the World's Indigenous People, which are linked and together bring actions to improve the standard of living of the indigenous peoples,

¹ A/CONF.157/24 (Part I), chap. III.

² General Assembly resolution 55/2 of 8 September 2000.



Welcoming its resolution 59/174 of 20 December 2004 proclaiming the Second International Decade of the World's Indigenous people, 2005-2014,

Expressing its appreciation to the Coordinator of the Second Decade, the Under-Secretary-General for Economic and Social Affairs, for having elaborated a concrete programme of action to be pursued during the Decade based upon equal participation and partnership between all actors involved,

Conscious that in its resolution 59/174 the General Assembly requested the Coordinator to fulfil his mandate in full cooperation and consultation with, inter alia, the Permanent Forum on Indigenous Issues and other relevant bodies and mechanisms of the United Nations system, and the Office of the United Nations High Commissioner for Human Rights,

Deeply convinced of the need to continue giving special attention throughout the Second Decade to standard-setting activities on issues of particular interest to indigenous peoples,

Having considered all the ideas and proposals submitted in the course of drafting the programme of action,

1. *Adopts* the draft programme of action for the Second International Decade of the World's Indigenous People;³

2. *Urges* all actors involved in the process to cooperate in a constructive manner to achieve rapid progress and concrete results in realizing the goals of the Second Decade;

3. *Appeals* to the international community to provide financial support to the programme of action for the Second Decade, inter alia, through contributions to the Voluntary Fund for the Second International Decade of the World's Indigenous People;

4. *Adopts* for the Second International Decade of the World's Indigenous People the theme, "Agenda for life";

5. *Requests* the Coordinator to consult with Member States, agencies and organizations of the United Nations system, indigenous peoples and other organizations with respect to the possibility of undertaking midterm and end-of-term reviews of the Second Decade;

6. *Reaffirms* that, in accordance with its resolutions 40/131 of 13 December 1985, 52/108 of 12 December 1997 and 56/140 of 19 December 2001, the representatives of indigenous communities and organizations will continue to benefit from the financial assistance that can be provided by the Voluntary Fund for Indigenous Populations to facilitate their participation in the deliberations of the Working Group on Indigenous Populations and in those of the Permanent Forum and the open-ended intersessional working group of the Commission on Human Rights in charge of completing the draft United Nations declaration on the rights of indigenous peoples;

7. *Decides* to include in the provisional agenda of its sixty-first session, under the item entitled "Indigenous issues", a sub-item entitled "Second International Decade of the World's Indigenous People".

³ A/60/270, chap. II.



General Assembly

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Third Committee

Agenda item 71 (a)

**Human rights questions: implementation of
human rights instruments**

**Austria, Belgium, Brazil, Chile, Czech Republic, Ecuador, Finland, France,
Guatemala, Hungary, Ireland, Mexico, Netherlands, Norway, Panama, Paraguay,
Peru, Poland and Portugal: draft resolution**

**Basic Principles and Guidelines on the Right to a Remedy and
Reparation for Victims of Gross Violations of International
Human Rights Law and Serious Violations of International
Humanitarian Law**

The General Assembly,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights,¹ the International Covenants on Human Rights,² other relevant human rights instruments and the Vienna Declaration and Programme of Action,³

Affirming the importance of addressing the question of remedies and reparation for victims of gross violations of international human rights law and serious violations of international humanitarian law in a systematic and thorough way at the national and international levels,

Recognizing that, in honouring the victims' right to benefit from remedies and reparation, the international community keeps faith with the plight of victims, survivors and future human generations and reaffirms international law in the field,

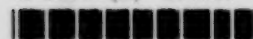
Recalling the adoption of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law by the Commission on Human Rights in its resolution 2005/35 of 19 April 2005⁴ and by

¹ Resolution 217 A (III).

² Resolution 2200 A (XXI), annex.

³ A/CONF.57/24 (Part I), chap. III.

⁴ To be issued as *Official Records of the Economic and Social Council, 2005, Supplement No. 3 (E/2005/23)*, chap. I, sect. A.



the Economic and Social Council in its resolution 2005/30 of 25 July 2005, in which the Council recommended to the General Assembly that it adopt the Basic Principles and Guidelines.

1. *Adopts* the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law annexed to the present resolution;

2. *Recommends* that States take the Basic Principles and Guidelines into account, promote respect thereof and bring them to the attention of members of the executive bodies of Government, in particular law enforcement officials and military and security forces, legislative bodies, the judiciary, victims and their representatives, human rights defenders and lawyers, the media and the public in general;

3. *Requests* the Secretary-General to take steps to ensure the widest possible dissemination of the Basic Principles and Guidelines in all the official languages of the United Nations, including by transmitting them to Governments and intergovernmental and non-governmental organizations and by including the Basic Principles and Guidelines in the United Nations publication entitled *Human Rights: A Compilation of International Instruments*.⁵

Annex

Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law

Preamble

The General Assembly,

Recalling the provisions providing a right to a remedy for victims of violations of international human rights law found in numerous international instruments, in particular the Universal Declaration of Human Rights¹ at article 8, the International Covenant on Civil and Political Rights⁶ at article 2, the International Convention on the Elimination of All Forms of Racial Discrimination⁷ at article 6, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁸ at article 14, the Convention on the Rights of the Child⁹ at article 39, and of international humanitarian law as found in article 3 of the Hague Convention of 18 October 1907 concerning the Laws and Customs of War on Land (Convention IV),¹⁰ article 91 of Protocol Additional to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of International Armed

⁵ United Nations publication, Sales No. 04.XIV.2.

⁶ See General Assembly resolution 2200 A (XXI), annex.

⁷ General Assembly resolution 2106 A (XX), annex.

⁸ United Nations, *Treaty Series*, vol. 1465, No. 24841.

⁹ *Ibid.*, vol. 1577, No. 27531.

¹⁰ See Carnegie Endowment for International Peace, *The Hague Conventions and Declarations of 1899 and 1907* (New York, Oxford University Press, 1915).

Conflicts (Protocol I) of 8 June 1977,¹¹ and articles 68 and 75 of the Rome Statute of the International Criminal Court,¹²

Recalling the provisions providing a right to a remedy for victims of violations of international human rights found in regional conventions, in particular the African Charter on Human and Peoples' Rights at article 7, the American Convention on Human Rights at article 25, and the Convention for the Protection of Human Rights and Fundamental Freedoms at article 13,

Recalling the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power emanating from the deliberations of the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders and General Assembly resolution 40/34 of 29 November 1985 by which the Assembly adopted the text recommended by the Congress,

Reaffirming the principles enunciated in the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, including that victims should be treated with compassion and respect for their dignity, have their right to access to justice and redress mechanisms fully respected, and that the establishment, strengthening and expansion of national funds for compensation to victims should be encouraged, together with the expeditious development of appropriate rights and remedies for victims,

Noting that the Rome Statute of the International Criminal Court¹² requires the establishment of "principles relating to reparation to, or in respect of, victims, including restitution, compensation and rehabilitation", requires the Assembly of States Parties to establish a trust fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims, and mandates the Court "to protect the safety, physical and psychological well-being, dignity and privacy of victims" and to permit the participation of victims at all "stages of the proceedings determined to be appropriate by the Court",

Affirming that the Basic Principles and Guidelines contained herein are directed at gross violations of international human rights law and serious violations of international humanitarian law which, by their very grave nature, constitute an affront to human dignity,

Emphasizing that the Basic Principles and Guidelines contained herein do not entail new international or domestic legal obligations but identify mechanisms, modalities, procedures and methods for the implementation of existing legal obligations under international human rights law and international humanitarian law which are complementary though different as to their norms,

Recalling that international law contains the obligation to prosecute perpetrators of certain international crimes in accordance with international obligations of States and the requirements of national law or as provided for in the applicable statutes of international judicial organs, and that the duty to prosecute reinforces the international legal obligations to be carried out in accordance with

¹¹ United Nations, *Treaty Series*, vol. 1125, No. 17512.

¹² *Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, 15 June-17 July 1998*, vol. II: *Final documents* (United Nations publication, Sales No. E.02.1.5), sect. A.

national legal requirements and procedures and supports the concept of complementarity.

Noting that contemporary forms of victimization, while essentially directed against persons, may nevertheless also be directed against groups of persons who are targeted collectively,

Recognizing that, in honouring the victims' right to benefit from remedies and reparation, the international community keeps faith with the plight of victims, survivors and future human generations and reaffirms the international legal principles of accountability, justice and the rule of law,

Convinced that, in adopting a victim-oriented perspective, the international community affirms its human solidarity with victims of violations of international law, including violations of international human rights law and international humanitarian law, as well as with humanity at large, in accordance with the following Basic Principles and Guidelines,

Adopts the following Basic Principles:

I. Obligation to respect, ensure respect for and implement international human rights law and international humanitarian law

1. The obligation to respect, ensure respect for and implement international human rights law and international humanitarian law as provided for under the respective bodies of law emanates from:

- (a) Treaties to which a State is a party;
- (b) Customary international law;
- (c) The domestic law of each State.

2. If they have not already done so, States shall, as required under international law, ensure that their domestic law is consistent with their international legal obligations by:

(a) Incorporating norms of international human rights law and international humanitarian law into their domestic law, or otherwise implementing them in their domestic legal system;

(b) Adopting appropriate and effective, legislative and administrative procedures and other appropriate measures that provide fair, effective and prompt access to justice;

(c) Making available adequate, effective, prompt and appropriate remedies, including reparation, as defined below;

(d) Ensuring that their domestic law provides at least the same level of protection for victims as required by their international obligations.

II. Scope of the obligation

3. The obligation to respect, ensure respect for and implement international human rights law and international humanitarian law as provided for under the respective bodies of law, includes, inter alia, the duty to:

(a) Take appropriate legislative and administrative and other appropriate measures to prevent violations;

(b) Investigate violations effectively, promptly, thoroughly and impartially and, where appropriate, take action against those allegedly responsible in accordance with domestic and international law;

(c) Provide those who claim to be victims of a human rights or humanitarian law violation with equal and effective access to justice, as described below, irrespective of who may ultimately be the bearer of responsibility for the violation; and

(d) Provide effective remedies to victims, including reparation, as described below.

III. Gross violations of international human rights law and serious violations of international humanitarian law that constitute crimes under international law

4. In cases of gross violations of international human rights law and serious violations of international humanitarian law constituting crimes under international law, States have the duty to investigate and, if there is sufficient evidence, the duty to submit to prosecution the person allegedly responsible for the violations and, if found guilty, the duty to punish her or him. Moreover, in these cases, States should, in accordance with international law, cooperate with one another and assist international judicial organs competent in the investigation and prosecution of these violations.

5. To that end, where so provided in an applicable treaty or under other international law obligations, States shall incorporate or otherwise implement within their domestic law appropriate provisions for universal jurisdiction. Moreover, where it is so provided for in an applicable treaty or other international legal obligations, States should facilitate extradition or surrender offenders to other States and to appropriate international judicial bodies and provide judicial assistance and other forms of cooperation in the pursuit of international justice, including assistance to, and protection of, victims and witnesses, consistent with international human rights legal standards and subject to international legal requirements such as those relating to the prohibition of torture and other forms of cruel, inhuman or degrading treatment or punishment.

IV. Statutes of limitations

6. Where so provided for in an applicable treaty or contained in other international legal obligations, statutes of limitations shall not apply to gross violations of international human rights law and serious violations of international humanitarian law which constitute crimes under international law.

7. Domestic statutes of limitations for other types of violations that do not constitute crimes under international law, including those time limitations applicable to civil claims and other procedures, should not be unduly restrictive.

V. Victims of gross violations of international human rights law and serious violations of international humanitarian law

8. For purposes of the present document, victims are persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law. Where appropriate, and in accordance with domestic law, the term "victim" also includes the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

9. A person shall be considered a victim regardless of whether the perpetrator of the violation is identified, apprehended, prosecuted, or convicted and regardless of the familial relationship between the perpetrator and the victim.

VI. Treatment of victims

10. Victims should be treated with humanity and respect for their dignity and human rights, and appropriate measures should be taken to ensure their safety, physical and psychological well-being and privacy, as well as those of their families. The State should ensure that its domestic laws, to the extent possible, provide that a victim who has suffered violence or trauma should benefit from special consideration and care to avoid his or her re-traumatization in the course of legal and administrative procedures designed to provide justice and reparation.

VII. Victims' right to remedies

11. Remedies for gross violations of international human rights law and serious violations of international humanitarian law include the victim's right to the following as provided for under international law:

- (a) Equal and effective access to justice;
- (b) Adequate, effective and prompt reparation for harm suffered;
- (c) Access to relevant information concerning violations and reparation mechanisms.

VIII. Access to justice

12. A victim of a gross violation of international human rights law or of a serious violation of international humanitarian law shall have equal access to an effective judicial remedy as provided for under international law. Other remedies available to the victim include access to administrative and other bodies, as well as mechanisms, modalities and proceedings conducted in accordance with domestic law. Obligations arising under international law to secure the right to access justice and fair and impartial proceedings shall be reflected in domestic laws. To that end, States should:

- (a) Disseminate, through public and private mechanisms, information about all available remedies for gross violations of international human rights law and serious violations of international humanitarian law;
- (b) Take measures to minimize the inconvenience to victims and their representatives, protect against unlawful interference with their privacy as

appropriate and ensure their safety from intimidation and retaliation, as well as that of their families and witnesses, before, during and after judicial, administrative, or other proceedings that affect the interests of victims;

(c) Provide proper assistance to victims seeking access to justice;

(d) Make available all appropriate legal, diplomatic and consular means to ensure that victims can exercise their rights to remedy for gross violations of international human rights law or serious violations of international humanitarian law.

13. In addition to individual access to justice, States should endeavour to develop procedures to allow groups of victims to present claims for reparation and to receive reparation, as appropriate.

14. An adequate, effective and prompt remedy for gross violations of international human rights law or serious violations of international humanitarian law should include all available and appropriate international processes in which a person may have legal standing and should be without prejudice to any other domestic remedies.

IX. Reparation for harm suffered

15. Adequate, effective and prompt reparation is intended to promote justice by redressing gross violations of international human rights law or serious violations of international humanitarian law. Reparation should be proportional to the gravity of the violations and the harm suffered. In accordance with its domestic laws and international legal obligations, a State shall provide reparation to victims for acts or omissions which can be attributed to the State and constitute gross violations of international human rights law or serious violations of international humanitarian law. In cases where a person, a legal person, or other entity is found liable for reparation to a victim, such party should provide reparation to the victim or compensate the State if the State has already provided reparation to the victim.

16. States should endeavour to establish national programmes for reparation and other assistance to victims in the event that the party liable for the harm suffered is unable or unwilling to meet their obligations.

17. States shall, with respect to claims by victims, enforce domestic judgements for reparation against individuals or entities liable for the harm suffered and endeavour to enforce valid foreign legal judgements for reparation in accordance with domestic law and international legal obligations. To that end, States should provide under their domestic laws effective mechanisms for the enforcement of reparation judgements.

18. In accordance with domestic law and international law, and taking account of individual circumstances, victims of gross violations of international human rights law and serious violations of international humanitarian law should, as appropriate and proportional to the gravity of the violation and the circumstances of each case, be provided with full and effective reparation, as laid out in principles 19 to 23, which include the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

19. *Restitution* should, whenever possible, restore the victim to the original situation before the gross violations of international human rights law or serious violations of international humanitarian law occurred. Restitution includes, as

appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one's place of residence, restoration of employment and return of property.

20. *Compensation* should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, resulting from gross violations of international human rights law and serious violations of international humanitarian law, such as:

- (a) Physical or mental harm;
- (b) Lost opportunities, including employment, education and social benefits;
- (c) Material damages and loss of earnings, including loss of earning potential;
- (d) Moral damage;
- (e) Costs required for legal or expert assistance, medicine and medical services, and psychological and social services.

21. *Rehabilitation* should include medical and psychological care as well as legal and social services.

22. *Satisfaction* should include, where applicable, any or all of the following:

- (a) Effective measures aimed at the cessation of continuing violations;
- (b) Verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety and interests of the victim, the victim's relatives, witnesses, or persons who have intervened to assist the victim or prevent the occurrence of further violations;
- (c) The search for the whereabouts of the disappeared, for the identities of the children abducted, and for the bodies of those killed, and assistance in the recovery, identification and reburial of the bodies in accordance with the expressed or presumed wish of the victims, or the cultural practices of the families and communities;
- (d) An official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim;
- (e) Public apology, including acknowledgement of the facts and acceptance of responsibility;
- (f) Judicial and administrative sanctions against persons liable for the violations;
- (g) Commemorations and tributes to the victims;
- (h) Inclusion of an accurate account of the violations that occurred in international human rights law and international humanitarian law training and in educational material at all levels.

23. *Guarantees of non-repetition* should include, where applicable, any or all of the following measures, which will also contribute to prevention:

- (a) Ensuring effective civilian control of military and security forces;

- (b) Ensuring that all civilian and military proceedings abide by international standards of due process, fairness and impartiality;
- (c) Strengthening the independence of the judiciary;
- (d) Protecting persons in the legal, medical and health-care professions, the media and other related professions, and human rights defenders;
- (e) Providing, on a priority and continued basis, human rights and international humanitarian law education to all sectors of society and training for law enforcement officials as well as military and security forces;
- (f) Promoting the observance of codes of conduct and ethical norms, in particular international standards, by public servants, including law enforcement, correctional, media, medical, psychological, social service and military personnel, as well as by economic enterprises;
- (g) Promoting mechanisms for preventing and monitoring social conflicts and their resolution;
- (h) Reviewing and reforming laws contributing to or allowing gross violations of international human rights law and serious violations of international humanitarian law.

X. Access to relevant information concerning violations and reparation mechanisms

24. States should develop means of informing the general public and, in particular, victims of gross violations of international human rights law and serious violations of international humanitarian law of the rights and remedies addressed by these Basic Principles and Guidelines and of all available legal, medical, psychological, social, administrative and all other services to which victims may have a right of access. Moreover, victims and their representatives should be entitled to seek and obtain information on the causes leading to their victimization and on the causes and conditions pertaining to the gross violations of international human rights law and serious violations of international humanitarian law and to learn the truth in regard to these violations.

XI. Non-discrimination

25. The application and interpretation of these Basic Principles and Guidelines must be consistent with international human rights law and international humanitarian law and be without any discrimination of any kind or ground, without exception.

XII. Non-derogation

26. Nothing in these Basic Principles and Guidelines shall be construed as restricting or derogating from any rights or obligations arising under domestic and international law. In particular, it is understood that the present Basic Principles and Guidelines are without prejudice to the right to a remedy and reparation for victims of all violations of international human rights law and international humanitarian law. It is further understood that these Basic Principles and Guidelines are without prejudice to special rules of international law.

XIII. Rights of others

27. Nothing in this document is to be construed as derogating from internationally or nationally protected rights of others, in particular the right of an accused person to benefit from applicable standards of due process.



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Third Committee

Agenda item 71 (a)

Human rights questions: implementation of human rights instruments

**Austria, Belgium, Benin, Chile, Costa Rica, Czech Republic,
Denmark, Ecuador, Finland, France, Latvia, Lithuania,
Netherlands, Nigeria, Norway, Panama, Paraguay, Peru, Poland,
Portugal, Romania, Slovenia and Sweden: draft resolution**

Torture and other cruel, inhuman or degrading treatment or punishment

The General Assembly,

Reaffirming that no one shall be subjected to torture or to other cruel, inhuman or degrading treatment or punishment,

Recalling that freedom from torture and other cruel, inhuman or degrading treatment or punishment is a non-derogable right that must be protected under all circumstances, including in times of international or internal armed conflict or disturbance, and that the prohibition of torture and other cruel, inhuman or degrading treatment or punishment is affirmed in relevant international instruments and customary international law,

Recalling also that a number of international, regional and domestic courts, including the International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, have recognized that the prohibition of torture is a peremptory norm of international law,

Recalling further the definition of torture contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,¹

Noting that under the Geneva Conventions of 1949² torture is a grave breach and that under the statutes of the International Criminal Tribunal for the Former

¹ United Nations, *Treaty Series*, vol. 1465, No. 24841.

² *Ibid.*, vol. 75, Nos. 970-973.



Yugoslavia and of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, and the Rome Statute of the International Criminal Court³ acts of torture are war crimes and can constitute crimes against humanity.

Commending the persistent efforts by non-governmental organizations, including the considerable network of centres for the rehabilitation of victims of torture, to combat torture and to alleviate the suffering of victims of torture,

1. *Condemns* all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all Governments to implement fully the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, inter alia, by ensuring that no individual in their custody or under their physical control, regardless of nationality or physical location, shall be subject to torture or cruel, inhuman or degrading treatment or punishment;

2. *Emphasizes* that Governments must take persistent, determined and effective measures to prevent and combat torture and other cruel, inhuman or degrading treatment or punishment, including their gender-based manifestations, inter alia, by ensuring proper follow-up of recommendations and conclusions from the relevant treaty bodies and mechanisms, including the Committee against Torture and the Special Rapporteur of the Commission on Human Rights on torture and other cruel, inhuman or degrading treatment or punishment;

3. *Condemns in particular* any action or attempt by States or public officials to legalize, authorize or acquiesce in torture and other cruel, inhuman or degrading treatment or punishment under any circumstances, including on grounds of national security or through judicial decisions;

4. *Stresses* that all allegations of torture or other cruel, inhuman or degrading treatment or punishment must be promptly and impartially examined by the competent national authority, that those who encourage, order, tolerate or perpetrate acts of torture must be held responsible and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed, and takes note in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles)⁴ as a useful tool in efforts to combat torture;

5. *Stresses also* that all acts of torture must be made offences under domestic criminal law, and emphasizes that acts of torture are serious violations of international humanitarian law and that the perpetrators of all acts of torture must be prosecuted and punished;

³ *Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June-17 July 1998, vol. I: Final documents* (United Nations publication, Sales No. E.02.L.5), sect. A.

⁴ Resolution 55/89, annex.

6. *Urges* States to ensure that any statement that is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made;

7. *Stresses* that States must not punish personnel who are involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment for not obeying orders to commit or conceal acts amounting to torture or other cruel, inhuman or degrading treatment or punishment;

8. *Recalls* that States shall not expel, return ("refouler"), extradite or in any other way transfer a person to another State under any circumstances, including if diplomatic assurances have been obtained, where there are substantial grounds for believing that the person would be in danger of being subjected to torture;

9. *Stresses* that national legal systems must ensure that victims of torture and other cruel, inhuman or degrading treatment or punishment obtain redress, are awarded fair and adequate compensation and receive appropriate social and medical rehabilitation, urges Governments to take effective measures to this end, and in this regard encourages the development of rehabilitation centres;

10. *Stresses* that ensuring that any individual arrested or detained is promptly brought before a judge or other independent judicial officer in person and permitting prompt and regular medical care and legal counsel as well as visits by family members and independent monitoring mechanisms are effective measures for the prevention of torture and other cruel, inhuman or degrading treatment and punishment;

11. *Reminds* all States that prolonged incommunicado detention or detention in secret places may facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and the dignity of the person;

12. *Calls upon* all Governments to take appropriate effective legislative, administrative, judicial and other measures to prevent and prohibit the production, trade, export and use of equipment that is specifically designed to inflict torture or other cruel, inhuman or degrading treatment;

13. *Urges* all States that have not yet done so to become parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁵ as a matter of priority;

14. *Invites* all States parties to the Convention that have not yet done so to make the declarations provided for in articles 21 and 22 of the Convention concerning inter-State and individual applications, to consider the possibility of withdrawing their reservations to article 20 and to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention as soon as possible;

15. *Urges* States parties to comply strictly with their obligations under the Convention, including, in view of the high number of reports not submitted in time, their obligation to submit reports in accordance with article 19 of the Convention, and invites States parties to incorporate a gender perspective and information

⁵ United Nations, *Treaty Series*, vol. 1465, No. 24841.

concerning children and juveniles when submitting reports to the Committee against Torture;

16. *Calls upon* States parties to give early consideration to signing and ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,⁶ which provides further measures for use in the fight against and prevention of torture and other cruel, inhuman or degrading treatment or punishment;

17. *Welcomes* the work of the Committee against Torture and the report of the Committee,⁷ submitted in accordance with article 24 of the Convention;

18. *Calls upon* the United Nations High Commissioner for Human Rights to continue to provide, at the request of Governments, advisory services for the prevention of torture and other cruel, inhuman or degrading treatment or punishment, including for the preparation of national reports to the Committee and for the establishment and operation of national preventive mechanisms, as well as technical assistance for the development, production and distribution of teaching material for this purpose;

19. *Welcomes* the interim report of the Special Rapporteur of the Commission on Human Rights on torture and other cruel, inhuman or degrading treatment or punishment,⁸ and encourages the Special Rapporteur to continue to include in his recommendations proposals on the prevention and investigation of torture and other cruel, inhuman or degrading treatment or punishment, including its gender-based manifestations;

20. *Requests* the Special Rapporteur to continue to consider including in his report information on the follow-up by Governments to his recommendations, visits and communications, including progress made and problems encountered;

21. *Calls upon* all Governments to cooperate with and assist the Special Rapporteur in the performance of his task, to supply all necessary information requested by the Special Rapporteur, to respond fully and expeditiously to his urgent appeals, to grant requests by the Special Rapporteur to visit their countries and to enter into a constructive dialogue with the Special Rapporteur with respect to the follow-up to his recommendations;

22. *Stresses* the need for the continued regular exchange of views among the Committee, the Special Rapporteur and other relevant United Nations mechanisms and bodies, as well as for the pursuance of cooperation with relevant United Nations programmes, notably the United Nations Crime Prevention and Criminal Justice Programme, with a view to enhancing further their effectiveness and cooperation on issues relating to torture, inter alia, by improving their coordination;

23. *Recognizes* the global need for international assistance to victims of torture, stresses the importance of the work of the Board of Trustees of the United Nations Voluntary Fund for the Victims of Torture, and appeals to all Governments and organizations to contribute annually to the Fund, preferably with a substantial increase in the level of contributions;

⁶ Resolution 57/199, annex.

⁷ *Official Records of the General Assembly, Sixtieth Session, Supplement No. 44 (A/60/44)*.

⁸ See A/60/316.

24. *Requests* the Secretary-General to continue to transmit to all Governments the appeals of the General Assembly for contributions to the Fund and to include the Fund on an annual basis among the programmes for which funds are pledged at the United Nations Pledging Conference for Development Activities;

25. *Also requests* the Secretary-General to ensure, within the overall budgetary framework of the United Nations, the provision of adequate staff and facilities for the bodies and mechanisms involved in combating torture and assisting victims of torture, noting the future establishment of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment under the Optional Protocol to the Convention, commensurate with the strong support expressed by Member States for combating torture and assisting victims of torture;

26. *Further requests* the Secretary-General to submit to the Commission on Human Rights at its sixty-second session and to the General Assembly at its sixty-first session a report on the status of the Convention and a report on the operations of the Fund;

27. *Calls upon* all Governments, the Office of the United Nations High Commissioner for Human Rights and other United Nations bodies and agencies, as well as relevant intergovernmental and non-governmental organizations, to commemorate, on 26 June, the United Nations International Day in Support of Victims of Torture;

28. *Decides* to consider at its sixty-first session the reports of the Secretary-General, including the report on the United Nations Voluntary Fund for Victims of Torture, the report of the Committee against Torture and the interim report of the Special Rapporteur of the Commission on Human Rights on torture and other cruel, inhuman or degrading treatment or punishment.



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Agenda item 71 (a)

Human rights questions: implementation of human rights instruments

Albania, Argentina, Austria, Belgium, Bolivia, Canada, Chile, Costa Rica, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Lithuania, Mexico, Monaco, Netherlands, Nigeria, Norway, Panama, Peru, Poland, Portugal, Romania, Slovenia, Sweden, Switzerland and United Kingdom of Great Britain and Northern Ireland: draft resolution

International Covenants on Human Rights

The General Assembly,

Recalling its resolution 58/165 of 22 December 2003 and Commission on Human Rights resolution 2004/69 of 21 April 2004,¹

Mindful that the International Covenants on Human Rights² constitute the first all-embracing and legally binding international treaties in the field of human rights and, together with the Universal Declaration of Human Rights,³ form the core of the International Bill of Human Rights,

Taking note of the report of the Secretary-General⁴ on the status of the International Covenant on Economic, Social and Cultural Rights,² the International Covenant on Civil and Political Rights² and the Optional Protocols to the International Covenant on Civil and Political Rights,⁵

Recalling the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, and reaffirming that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and that the promotion and protection of one category of rights

¹ See *Official Records of the Economic and Social Council, 2004, Supplement No. 3 (E/2004/23)*, chap. II, sect. A.

² Resolution 2200 A (XXI), annex.

³ Resolution 217 A (III).

⁴ A/60/284.

⁵ See resolution 2200 A (XXI), annex, and resolution 44/128, annex.



should never exempt or excuse States from the promotion and protection of the other rights,

Recognizing the important role of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights in examining the progress made by States parties in fulfilling the obligations undertaken in the International Covenants on Human Rights and the Optional Protocols to the International Covenant on Civil and Political Rights and in providing recommendations to States parties on their implementation,

Considering that the effective functioning of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights is indispensable for the full and effective implementation of the International Covenants on Human Rights,

Recognizing the importance of regional human rights instruments and monitoring mechanisms in complementing the universal system of promotion and protection of human rights,

1. *Reaffirms* the importance of the International Covenants on Human Rights² as major components of international efforts to promote universal respect for and observance of human rights and fundamental freedoms;

2. *Takes note with appreciation* of the new States parties to the International Covenant on Economic, Social and Cultural Rights² and the International Covenant on Civil and Political Rights,² and to the Optional Protocols to the International Covenant on Civil and Political Rights,⁵ and strongly appeals to all States that have not yet done so to become parties to the Covenants, and to consider as a matter of priority acceding to the Optional Protocols and making the declaration provided for in article 41 of the International Covenant on Civil and Political Rights, and requests the Secretary-General to continue to support the annual treaty event to this end;

3. *Invites* the United Nations High Commissioner for Human Rights to intensify systematic efforts to encourage States to become parties to the International Covenants on Human Rights and, through the programme of advisory services in the field of human rights, to assist such States, at their request, in ratifying or acceding to the Covenants and to the Optional Protocols to the International Covenant on Civil and Political Rights with a view to achieving universal adherence;

4. *Calls for* the strictest compliance by States parties with their obligations under the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and, where applicable, the Optional Protocols to the International Covenant on Civil and Political Rights;

5. *Emphasizes* that States must ensure that any measure to combat terrorism complies with their obligations under relevant international law, including their obligations under the International Covenants on Human Rights, and welcomes the establishment by the Commission on Human Rights of the mandate of a Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism;⁶

² See *Official Records of the Economic and Social Council, 2005, Supplement No. 3 (E/2005/23)*, chap. II, sect. A, resolution 2005/80 of 21 April 2005, para. 14 (a) through (f).

6. *Stresses* the importance of avoiding the erosion of human rights by derogation and recalls that, in accordance with article 4 of the International Covenant on Civil and Political Rights, certain rights are recognized as non-derogable in any circumstances and that any measures derogating from the provisions of the Covenant must be in accordance with that article in all cases, bearing in mind the need for States parties to provide the fullest possible information during states of emergency so that the justification for the appropriateness of measures taken in those circumstances can be assessed, and underlining the exceptional and temporary nature of any such derogations;⁷

7. *Encourages* States parties to consider limiting the extent of any reservations that they lodge to the International Covenants on Human Rights and the Optional Protocols to the International Covenant on Civil and Political Rights, to formulate any reservations as precisely and narrowly as possible, and to regularly review such reservations with a view to withdrawing them so as to ensure that no reservation is incompatible with the object and purpose of the relevant treaty;

8. *Welcomes* the annual reports of the Human Rights Committee submitted to the General Assembly at its fifty-ninth⁸ and sixtieth⁹ sessions, and takes note of the General Comments adopted by the Committee,¹⁰ including the most recent General Comment, No. 31, on the nature of the general legal obligation imposed on States parties to the International Covenant on Civil and Political Rights;¹¹

9. *Also welcomes* the reports of the Committee on Economic, Social and Cultural Rights on its thirtieth and thirty-first sessions¹² and on its thirty-second and thirty-third sessions,¹³ and takes note of the General Comments adopted by the Committee,¹⁰ including the most recent General Comment, No. 16, on the equal right of men and women to the enjoyment of all economic, social and cultural rights, adopted by the Committee at its thirty-fourth session;

10. *Expresses regret* at the number of States parties that have failed to fulfil their reporting obligations under the International Covenants on Human Rights and urges States parties to fulfil their reporting obligations on time and to attend and participate in the consideration of the reports by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights when so requested;

11. *Urges* States parties to make use in their reports of sex-disaggregated data and stresses the importance of integrating a gender perspective in the implementation of the International Covenants on Human Rights at the national level, including in the national reports of States parties and in the work of the Human Rights Committee and of the Committee on Economic, Social and Cultural Rights;

⁷ See, for example, General Comment No. 29, adopted by the Human Rights Committee, on article 4 of the Covenant regarding derogations from the provisions of the Covenant during a state of emergency (*Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 40 (A/56/40)*, vol. I, annex VI).

⁸ *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 40 (A/59/40)*.

⁹ *Ibid.*, Sixtieth Session, Supplement No. 40 (A/60/40).

¹⁰ See HRI/GEN/1/Rev.7.

¹¹ *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 40 (A/59/40)*, vol. I, annex III.

¹² *Official Records of the Economic and Social Council, 2004, Supplement No. 2 (E/2004/22)*.

¹³ *Ibid.*, 2005, Supplement No. 2 (E/2005/22).

12. *Strongly encourages* States parties that have not yet submitted core documents to the Office of the United Nations High Commissioner for Human Rights to do so, and invites all States parties regularly to review and update their core documents while bearing in mind the current discussion on the elaboration of an expanded core document;

13. *Urges* States parties to take duly into account, in implementing the provisions of the International Covenants on Human Rights, the recommendations and observations made during the consideration of their reports by the Human Rights Committee and by the Committee on Economic, Social and Cultural Rights, and the views adopted by the Human Rights Committee under the first Optional Protocol to the International Covenant on Civil and Political Rights;

14. *Urges* all States to publish the texts of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocols to the International Covenant on Civil and Political Rights in as many local languages as possible and to distribute them and make them known as widely as possible to all individuals within their territory and subject to their jurisdiction;

15. *Urges* each State party to give particular attention to the dissemination at the national level of their reports submitted to the Human Rights Committee and the Committee on Economic, Social and Cultural Rights and, further, to translate, publish and make available as widely as possible to all individuals within its territory and subject to its jurisdiction by appropriate means the full text of the recommendations and observations made by the Committees after the examination of those reports;

16. *Reiterates* that States parties should take into account, in their nomination of members to the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, that the Committees shall be composed of persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience, and to equal representation of women and men, and that members serve in their personal capacity, and also reiterates that, in the elections of the Committees, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems;

17. *Invites* the Human Rights Committee and the Committee on Economic, Social and Cultural Rights, when considering the reports of States parties, to continue to identify specific needs that might be addressed by United Nations departments, funds and programmes and the specialized agencies, including through the advisory services and technical assistance programme of the Office of the United Nations High Commissioner for Human Rights;

18. *Stresses* the need for improved coordination among relevant United Nations mechanisms and bodies in supporting States parties, upon their request, in implementing the International Covenants on Human Rights and the Optional Protocols to the International Covenant on Civil and Political Rights, and encourages continued efforts in this direction;

19. *Expresses its appreciation* for the efforts made so far by the Human Rights Committee and the Committee on Economic, Social and Cultural Rights to

improve the efficiency of their working methods and encourages the Committees to pursue their efforts and, in this regard, welcomes the meetings held by the Committees and States parties to exchange ideas on how to render the working methods of the Committees more efficient, and encourages all States parties to continue to contribute to the dialogue with practical and concrete proposals and ideas on ways to improve the effective functioning of the Committees;

20. *Takes note* of the proposals of the Secretary-General and the United Nations High Commissioner for Human Rights as well as other proposals on human rights treaty body reform, inter alia, to harmonize reporting requirements and to create a unified standing treaty body, and looks forward to further deliberations on this subject;

21. *Welcomes* the continuing efforts of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights to strive for uniform standards in the implementation of the provisions of the International Covenants on Human Rights;

22. *Notes* the need for further consideration of the issue of justiciability of the rights set forth in the International Covenant on Economic, Social and Cultural Rights and for further efforts towards developing indicators and benchmarks to measure progress in the national implementation by States parties of the rights protected by the Covenant;

23. *Welcomes* the report on its second session of the open-ended working group of the Commission on Human Rights established with the view to considering options regarding the elaboration of an optional protocol to the International Covenant on Economic, Social and Cultural Rights,¹⁴ and encourages all parties to participate actively at the third session of the working group which will consider a paper with elements for an optional protocol presenting a non-judgemental analysis of all the various options for an optional protocol, to be submitted by the Chairperson of the working group in order to facilitate a more focused discussion at the third session;

24. *Encourages* the specialized agencies that have not yet done so to submit their reports on the progress made in achieving the observance of the provisions of the International Covenant on Economic, Social and Cultural Rights, in accordance with article 18 of the Covenant, and expresses its appreciation to those that have done so;

25. *Encourages* the Secretary-General to continue to assist States parties to the International Covenants on Human Rights in the preparation of their reports, including by convening seminars or workshops at the national level for the training of government officials engaged in the preparation of such reports and by exploring other possibilities available under the programme of advisory services in the field of human rights;

26. *Requests* the Secretary-General to ensure that the Office of the United Nations High Commissioner for Human Rights effectively assists the Human Rights Committee and the Committee on Economic, Social and Cultural Rights in the implementation of their respective mandates by providing, inter alia, adequate Secretariat staff resources and conference and other relevant support services, and

¹⁴ E/CN.4/2005/52.

welcomes in this regard the decision taken at the 2005 World Summit to double the regular budget resources of the Office over the next five years;¹⁵

27. *Also requests* the Secretary-General to keep the General Assembly informed of the status of the International Covenants on Human Rights and the Optional Protocols to the International Covenant on Civil and Political Rights, including all reservations and declarations, through the United Nations websites.

¹⁵ See resolution 60/1, para. 124.



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Agenda item 107

International drug control

Providing support to Afghanistan with a view to ensuring effective implementation of its Counter-Narcotic Implementation Plan

Note by the Secretariat

By its resolution 2005/24 of 22 July 2005, the Economic and Social Council recommended to the General Assembly the adoption of the following draft resolution:

Providing support to Afghanistan with a view to ensuring effective implementation of its Counter-Narcotic Implementation Plan

"The General Assembly,

"Noting with concern the report by the United Nations Office on Drugs and Crime entitled 'Afghanistan: Opium Survey 2004', emphasizing that the cultivation of opium poppy in Afghanistan has increased to an unprecedented level, and stressing the threats to the security and stability of that country, neighbouring regions and the entire world that have emanated from the increased illicit cultivation of opium poppy and production of and trafficking in illicit drugs,

"Recognizing the political will and continued commitment of Afghanistan to eliminate opium poppy cultivation by 2013, and welcoming in this context the Counter-Narcotic Implementation Plan of Afghanistan, launched in February 2005, which formalized the establishment of the new counter-narcotic ministry,

"Taking note of the Constitution of Afghanistan, in article 7 of which the Government of Afghanistan expresses its strong resolve to fight against the illicit cultivation of opium poppy and the production of and trafficking in opium and other illicit narcotic drugs,



"Encouraging the Government of Afghanistan to intensify its efforts to achieve an effective legislative counter-narcotic framework,

"Welcoming the establishment by the Government of Afghanistan of a counter-narcotic police force in support of its counter-narcotic campaign, in the context of strengthening the law enforcement regime,

"Noting with appreciation the achievements of the Government of Afghanistan during 2004 in implementing law enforcement measures leading to the elimination of thousands of acres of opium poppy cultivation, the interdiction of drug traffickers, the seizure of substantial amounts of illicit drugs, precursors and small armaments and weapons and the dismantling of hundreds of clandestine laboratories used for illicit drug production, and noting the commitment of the Government to increasing its efforts substantially in those areas,

"Noting the priority given by the Government of Afghanistan to ensuring a credible, targeted and reinforced illicit crop eradication campaign and to working with international partners through the national development budget and the newly established counter-narcotic trust fund in order to facilitate the provision of sustainable alternative livelihoods in targeted areas,

"Bearing in mind that the fight against the illicit cultivation of opium poppy and the production of and trafficking in illicit narcotic drugs is a common and shared responsibility to be addressed through international efforts, as recognized by Member States in the Political Declaration adopted by the General Assembly at its twentieth special session,¹

"Recalling its resolution 55/2 of 8 September 2000, entitled 'United Nations Millennium Declaration', and the goals contained therein, which focused on economic development, peace and security and the establishment of the required framework for international cooperation to achieve those goals,

"Recalling also various other United Nations resolutions and recommendations, including General Assembly resolution 59/161 of 20 December 2004 and the recommendations of the International Narcotics Control Board in its report for 2004,² requesting the international community to support the Government of Afghanistan in its fight against the illicit cultivation of opium poppy and trafficking in illicit narcotic drugs,

"1. Notes with appreciation the bilateral and multilateral support being provided to Afghanistan by the international community through the United Nations Office on Drugs and Crime and other international entities;

"2. Commends the Counter-Narcotic Implementation Plan of Afghanistan, which comprises an eight-point strategy that includes:

"(a) Building counter-narcotic institutions and provincial structures;

"(b) Increasing the awareness of the Afghan population about the problems and threats emanating from the illicit cultivation of opium poppy and the production of and trafficking in illicit narcotic drugs;

¹ Resolution S-20/2, annex.

² Report of the International Narcotics Control Board for 2004 (United Nations publication, Sales No. E.05.XI.3).

"(c) Provision of alternative livelihoods and creation of the national development budget and the counter-narcotic trust fund to provide financial support;

"(d) Interdiction and elimination of heroin-manufacturing laboratories through the national anti-narcotic police force;

"(e) Strengthening legal and judicial institutions;

"(f) A credible, targeted and verified eradication campaign;

"(g) Demand reduction and treatment of addicts;

"(h) Regional cooperation with neighbouring countries aimed at strengthening security belts in the region and countering the threat posed by the illicit cultivation of opium poppy and the production of and trafficking in illicit narcotic drugs;

"3. *Calls upon* the international community to provide the necessary support to the counter-narcotic objectives of the Government of Afghanistan, by continued technical assistance and financial commitment, in particular, to all eight pillars of the Counter-Narcotic Implementation Plan;

"4. *Encourages* all stakeholders to strengthen measures for global demand reduction, thereby enhancing efforts to combat illicit drug production and trafficking;

"5. *Urges* Afghanistan to maintain illicit drug control among its highest priorities, as stipulated in its Constitution and the Counter-Narcotic Implementation Plan, with a view to enhancing its efforts to combat the illicit cultivation of opium poppy, the production of illicit drugs and trafficking in illicit drugs and precursors;

"6. *Requests* the United Nations Office on Drugs and Crime to strengthen its efforts to ensure that multilateral support is provided to Afghanistan in line and in coordination with the Counter-Narcotic Implementation Plan."